



CITY OF HAYWARD AGENDA REPORT

Meeting Date: 6/12/03
Agenda Item: 2

TO: Planning Commission

FROM: James V. De Luz

SUBJECT: Appeal of Planning Director Denial of Site Plan Review No. PL-2003-0012 – James Jensen (Applicant/Owner) - Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling

The Property Is Located at 24431 Second Street in a RSB6 (Single-Family Residential) Zoning District

RECOMMENDATION:

It is recommended that the Planning Commission:

1. Find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines pursuant to Section 15303, New Construction or Conversion of Small Structures, Class (3)(a), Single-Family residences not in conjunction with the building of two or more such units, and;
2. Deny the Site Plan Review subject to the attached findings.

BACKGROUND:

On March 24, 2003, the Planning Director denied Site Plan Review PL 2003-0012, to construct a single-family dwelling, because the house design does not meet the *City's Design Guidelines*. The garage exceeds 50 percent of the frontage of the dwelling, and there do not appear to be physical constraints relating to the size or shape of the property that would impede development in accordance with the *Design Guidelines*. The *Guidelines* state, "Limit garage to less than 50 percent of structure frontage in order to maintain living space overlooking the street." The applicant has appealed the Planning Director's decision (see attached letter of appeal dated April 6, 2003).

The property is located along the westerly side of Second Street approximately 900 feet south of Walpert Street in the Mission-Foothills Neighborhood. The lot is rectangular, with approximately 51 feet of frontage on Second Street, 132 feet of depth and approximately 5,634 net square feet of area. A 15-foot-wide-vehicular access easement along the easterly side of subject property encumbers 7.5 feet of the subject property and provides ingress and egress to

two landlocked parcels developed with single-family residences located southerly of the subject property.

Approval of Parcel Map 5946 in 1992 created this parcel. Staff did not support the subdivision because of the narrow property frontage and the lot area that would be less than that allowed in the RSB6 District. If the parcel map were approved, staff then concluded that the property could be developed in a reasonable manner despite the narrow frontage but that the design of a new dwelling should respect the aesthetics and density of the neighborhood and conform to parking requirements.

Staff also concluded that although the property would ultimately be only 33 feet in width, taking into consideration the width of the 7.5-foot easement and the 5-foot side yard setback requirement, *a home still could be designed with the living area at the front of the dwelling and the garage located at the rear* (see attached staff report dated February 11, 1992). A parking space, in addition to the two spaces within the garage, was also required as a condition of the parcel map approval and the property owner was required to record a deed restriction to provide the additional on-site open parking space. The applicant states that movement of the garage to the rear of the property would cause traffic conflict within the easement. However, a garage at the front would still share the easement with only two other homes. Single-family residences typically create 10 vehicular trips per day.

A mature 12-inch diameter oak tree is located along the westerly property line. The applicant stated he intends to preserve the oak although the site plan shows that the dwelling foundation is only 3 feet from the tree. *City Design Guidelines* state, "Retain existing healthy mature plant materials as much as possible, especially large trees." The Tree Preservation Ordinance protects trees with a 30-inch, or greater, circumference; a permit is required for removal. In any case, submittal of an arborist's report addressing house design, foundation design, and tree location prior to site plan review approval would be appropriate.

The applicant's design does not reflect City Design Guidelines or the requirements of the parcel map approval. The garage dominates the front elevation of the dwelling in that it exceeds 50 percent of the dwelling frontage. The remaining frontage scarcely leaves sufficient area for a front door and porch and no room at all for a front window to overlook the street which conflicts with City Design Guidelines. Staff has recommended to the applicant redesign so that the living area of the dwelling is at the front and the garage at the rear of the dwelling. Redesign would be appropriate also to provide protection of the existing large oak tree. The applicant has not been willing to make these changes. Therefore, staff recommends denial of the site plan review application.

ENVIRONMENTAL REVIEW:

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, New Construction or Conversion of Small Structures, Class (3), (a) Single-Family Residences not in conjunction with the building of two or more such units.

In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

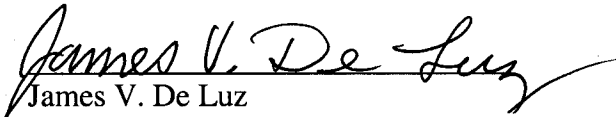
PUBLIC NOTICE:

On June 2, 2003, a Notice of Public Hearing for the Planning Commission hearing was mailed to all property owners and residents within 300 feet of the project site. Notice was also provided to members of the Mission Foothills Task Force.

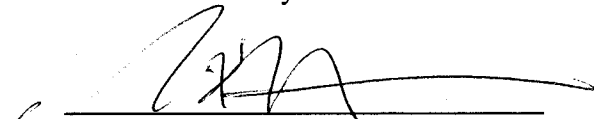
CONCLUSION:

It is staff's opinion there are no physical constraints relating to the size or shape of the property that would impede development in accordance with City Design Guidelines and that there are several design alternatives by which the applicant may locate an attached or a detached double-car garage at the rear of the of the dwelling.

Prepared by:

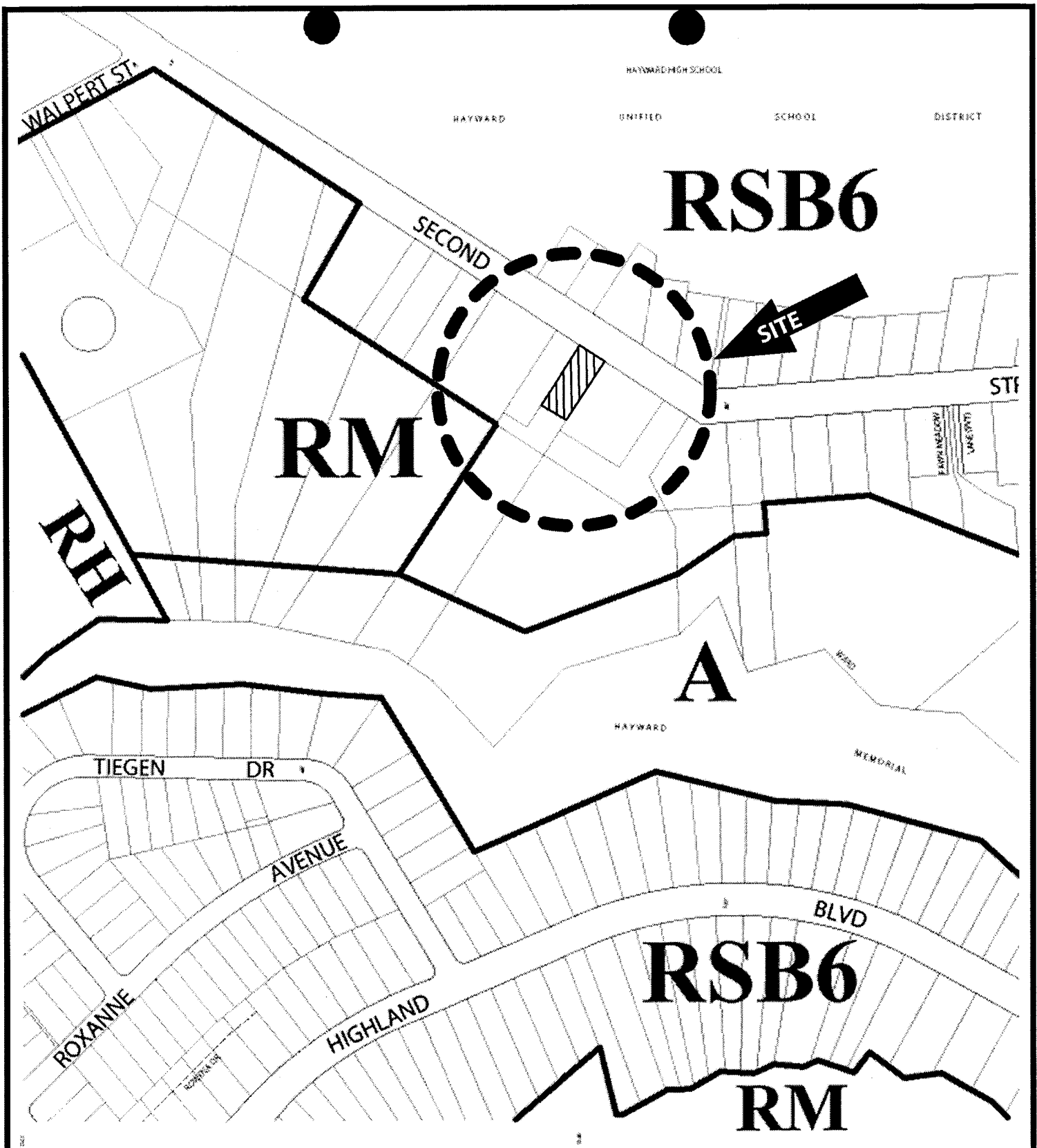

James V. De Luz
Assistant Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial
- C. Applicant's Appeal Letter dated 4/06/2003
- D. Letters of Support
- E. Parcel Map 5946 Staff Report dated 2/13/1992
Plans



Area & Zoning Map

PL-2003-0012 SPR/VAR

Address: 24431 2nd Street

Applicant: James Jensen

Owner: James Jensen

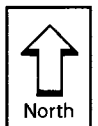
A-Agricultural-ABSA, AB10A, AB100A, AB160A

PD-Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential, RSB4, RSB6



**CITY OF HAYWARD
PLANNING DIVISION
SITE PLAN REVIEW DENIAL**

June 12, 2003

SITE PLAN REVIEW APPLICATION NO. PL-2003-0012: James Jensen (Applicant/Owner) – Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling

The Property Is Located at 24431 Second Street (Assessor's Parcel No. 445-50-24), Approximately 900 Feet Southerly of Walpert Street, in a Single-Family Residential (RSB6) Zoning District

FINDINGS FOR DENIAL:

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, Class 3, New Construction of Small Structures.
- B. The design of the proposed single-family dwelling design does not conform with City Design Guidelines for Single-Family Residential Development in that the garage exceeds more than 50 percent of the structure frontage.
- C. The design of the dwelling does not provide for visibility of the street from the living area and does not provide for the location of windows that overlook the street in order to maintain the social functions of the street such as informal surveillance for crime prevention.
- D. The proposed design is not typical of residences in the immediate area in that surrounding homes are designed with windows and living areas that provide views of, and overlook, the street. The windows afford residents the opportunity to view the streetscape, monitor activity outside their residences and increase the opportunities for neighborhood security.
- E. Design alternatives are available to the applicant such as relocating the garage to the rear of the dwelling or constructing a detached garage within the rear yard area at the back of the dwelling that would utilize the existing access easement for vehicular circulation and parking access. Redesign or relocation of the garage would conform with City Design Guidelines, provide ample open space at the front of the dwelling for landscaping purposes and create a street friendly elevation along Second Street, which is a heavily used minor arterial.

RECEIVED

APR 07 2003

PLANNING DIVISION

April 6, 2003

City of Hayward
Dyana Anderly, Planning Division
777 B Street
Hayward, CA 94541

Re: Site Plan Review Denial of 24431 Second St. (Application No. 2003-0012)

Dyana,

Please find this letter as an APPEAL to the Site Plan Review Denial of Application No. 2003-0012 dated March 24, 2003.

The reasons for this appeal is as follows:

1. Finding A: *"The design of the proposed single-family dwelling design does not conform with City Design Guideline for Single-Family Residential Development in that the garage exceeds more than 50 percent of the structure frontage."*

Response: At the time the lot was created in 1992, the ordinance did not exist. Had it existed, it would not be likely that the city would have approved the creation of the lot. During the development of the proposed dwelling, since 1992, we consulted with the Hayward City Planning Department on a regular basis to make sure the plans conformed to city ordinances. At no time were we advised of the "City Design Guideline for Single-Family Residential Development" rules. It may be possible that since this is not a part of a "subdivision" (as referred to in the guideline), that the City Planning Department did not see a need to share this guideline during the development stages of the dwelling.

Response: Changing the current plan to place the garage other than in front of the house creates safety issues and severe physical constraints, and would create a greater fire hazard to all residences utilized by the already busy driveway.

2. Finding B: *"The design of the dwelling does not provide for visibility of the street from the living area and does not provide for the location of windows that overlook the street in order to maintain the social functions of the street such as informal surveillance for crime prevention."*

Response: Although the garage is over 50% of the structure frontage, the design of the house allows for the city's safety issues to be adhered to. The current design of the proposed dwelling has provided for a large window looking down on the street from the 2nd floor bedroom. As well, the front door design can be

ATTACHMENT C

modified to include windows on either side of the door, providing a view to the street.

3. Finding C: *"The proposed design is not typical of residences in the immediate area in that surrounding homes are designed with windows and living areas that provide views of, and overlook, the street. The windows afford residents the opportunity to view the streetscape, monitor activity outside their residences and increase the opportunities for neighborhood security."*

Response: There are no two houses in the immediate area that would imply a "typical residence". Second Street enjoys a variety of home designs that reflect the diversity and growth of the neighborhood over many years. Most of the neighboring houses have only 2 windows facing the street, and 1 house (next door) has 1 small bathroom window visible to the street which is from the 2nd floor. The front door design can be modified to include windows on either side of the door, providing a view to the street, and a security camera can be easily installed to provide added safety.

In addition, the current proposal has two important benefits:

- Three immediate neighbors are set back from the street and are cushioned from the street noise by space, structures or shrubbery. A garage in the front of the property will serve as insulation to the heavy noise.
- This particular parcel is located on the outside of a curve and has had a car run though the front of the lot, ruining the guide wire and destroying the fence. A garage will serve as added protection for the living space at the front of the house.

4. Finding D: *"Design alternatives are available to the applicant such as relocating the garage to the rear of the dwelling or constructing a detached garage within the rear yard area at the back of the dwelling that would utilize the existing access easement for vehicular circulation and parking access. Redesign or relocation of the garage would conform with City Design Guidelines, provide ample open space at the front of the dwelling for landscaping purposes and create a street friendly elevation along Second Street, which is a heavily used minor arterial."*

Response: Constructing a garage in the rear of the property would exacerbate the already heavy traffic utilizing the already undersized driveway. Parking a vehicle at the rear of the property in front of the garage would cause the driveway to be partially blocked, impairing access to the back dwellings. A garage in the rear of the property would create a much greater fire hazard to the neighboring dwellings which would not conform to City Design Guidelines.

The current design provides ample open space for landscaping in the front of the dwelling, as well as ample space for landscaping in the back and side yard. With either design, the landscaping area in front as there is 24' of space for landscaping in the front yard. In keeping with the City Design Guidelines, the current plans provide for landscaping and beautifying Second Street.

Placing the garage in the rear of the property greatly reduces outside private living area (as enjoyed by the neighbors) for the residents and pets.

Additional Response: Attached are letters from existing immediate neighbors indicating their displeasure and concerns in placing the garage in the rear of the property.

Additional Response: The denial letter has indicated that the proposed deck on the side of the dwelling does not meet setback and height requirements. The deck can be re-designed or removed.

Responses to Variance Request Guidelines (Section. 10-1.3325 Findings)

- a. "There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints."

Response: The city has limited the access to the property to the easement only. To put the garage at the rear of the property, the easement would have to be widened. If the easement were widened, it would compound the problems of having the garage at the back.

The size of the property is undersized (too narrow). The easement further restricts the buildable area. The shape of the property is long and narrow. The location of the property in respect to the easement and the surrounding properties affects the location of the garage and parking. A very large (21'+) oak tree and a 5" oak tree would have to be removed in order to build an attached garage at the rear of the property. There is a ten foot wide tree preservation easement at the rear of the property. A detached garage at the rear of the property would destroy the tree easement, the 5" oak tree, create a greater fire hazard, create a greater traffic hazard, and restrict the outside living area of the back yard.

- b. "Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification."

Response: There are many deprivations related to placing the garage at the rear of the property. They are:

- As stated above, moving the garage to the rear of the property would deny the resident of an enclosed back yard as an additional parking space is required.
- Resident privacy, ability to entertain outside, and to garden is severely limited.
- Home security is compromised as the back of the property is exposed to the general public.
- Actual inside living space would be reduced as the building would have to be made smaller to accommodate the larger easement required.

- The intended occupant would not have an area to house their outside dog.
 - Property values of the surrounding homes would likely be reduced because outside living space.
 - Landscaping would be minimal.
- c. "The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated."

Response: Most houses have the privilege of being parallel to the street because their house faces the street. The proposed dwelling doesn't face the street because the planning committee granted the lot in the current configuration before the existing garage ordinance was put in place. (Note: the proposed garage is perpendicular to the street and will not distract from the esthetics of the community.)

It is the applicant's hope that the above responses will explain why the dwelling was designed as proposed. Since 1992, the applicant has consistently sought the Hayward City Planning Department's advice and direction while developing this proposal. The applicant would be pleased to provide the department with preliminary plans for this proposal that were brought to the Planning Department for advice and council back in 1993.

Following the Planning Department's feedback over the years, the applicant and intended homeowner has invested in the services of structural engineers, surveyors, soil engineers, truss design and heat calculations. The current or any proposed design includes upgrading the utilities for the 3 surrounding houses at the applicant's expense. In order to redesign the proposed dwelling, the applicant would have to expend even more money on the above services. This would create a financial hardship. Because of the continual involvement of the Planning Department in the proposal development the applicant admits surprise that the proposed dwelling variance application has been denied. It is the applicant's request that the application be scheduled to be heard by the Planning Commission.

Respectfully submitted,

James E. Jensen
24431 2nd St.
Hayward, CA 94541
510-886-6770

MARCH 23, 2003

Dear Jim

Thank you for showing me the plans for the house you plan to build on the front lot in front of your house on second st.

I'm writing this letter as I have some concern about the placement of the garage.

As you know I have lived here at 24437 2nd St for the past 23 yrs. you have been a great neighbor, I might add. The only difficulty we have is the very limited parking we have here.

As you know I currently have 3 cars, some times I had 6 or more. You also have several cars & trucks. With all of our own cars plus our visiting kids and friends, parking can become very difficult to say the least. Not only is our own parking a problem but the multi-family houses across the street who park on our side of the street make it next to impossible to ask our guest to park out there on the street. Some times our guest have had to park down near the high school Tennis Courts.

I'm bring this up to establish why I am opposed to your alternate proposal of placing the garage to the new house to the back of the residence.

2-

I feel this will cause unnecessary congestion to those of us here at the end of this common drive way.

It is difficult enough with our two families parking and trying to maneuver in and out, just turning our cars around so we can go out front first is very difficult. As you know I've hit your cars several times trying to back up so I can get out front first.

With the garage placed at the back of your property it means we will have a third family - with their cars & Trucks also trying to get in and out. Even with the space provided by the driveway for the new house you know we will have major problems getting in & out.

I am opposed to the rear placement of your new garage. This added parking problem to those of us at the back of the property will be intolerable and unacceptable.

Sincerely

Duane Gull

Please call me if you need to
510-538-2436

February 27, 2003

Jim Jensen
24431 Second St.
Hayward, CA 94541

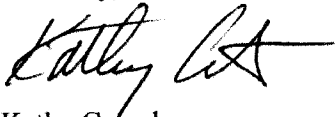
Dear Jim,

Thank you for informing me of the options regarding the underground utilities that you will be installing for the new house.

I understand that the City of Hayward is suggesting that you obtain an easement from me, and locate the trench down the side of my driveway. I am sorry, but I have no interest in having my driveway torn up for even a short period of time. Please inform the City that I am not willing to grant this easement.

I wish you luck on your endeavor. Feel free to contact me if I can assist you in some other way.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Catanho". The signature is fluid and cursive, with a large, stylized "K" and "C".

Kathy Catanho
24409 Second St.
Hayward, CA 94541

To Whom It May Concern:

This letter is regarding the proposed dwelling at 24431 2nd St, Hayward. The City of Hayward has suggested that instead of the garage being up at the front of the lot, they want it at the rear.

If the garage is placed at the rear, it would increase the noise level because of the extra traffic. We already have at the end of the driveway no less than 4 cars parked, or going in and out. If the garage is at the back of the lot, it increases the chance of a driveway accident. This has already happened because of cars turning around or backing out in the tight area at the end of the driveway.

There is an easement for trees that I understand will have to be removed if the garage goes in the back. Removing trees for a building does not seem to be in the best interest of the environment or my enjoyment of them.

It's my opinion that the design of the proposed house be kept as it is. I don't look forward to the increased noise, loss of trees, and the extra traffic if the plan is changed.

A handwritten signature in cursive script, appearing to read "Theresa Jensen".

Theresa Jensen
24431 2nd St
Hayward, CA 94541

PLANNING DEPARTMENT REPORT
Planning Commission
February 13, 1992

ITEM: 14

TENTATIVE PARCEL MAP 5946 - JAMES JENSEN (SUBDIVIDER/OWNER) -
Request to subdivide a 17,475± square-foot parcel into two parcels consisting of 6,685± and 10,788± square-feet and to approve exceptions for Parcel 1 to have a width of 50 feet where 60 feet is required, an exception to allow Parcel 2 to have access via an easement in lieu of fronting on a public street or approved private street, and an exception to allow a Parcel with a net area of 5,695± square-feet where 6,000 square feet is required.

Property is located at 24431 Second Street, west side, opposite of Hayward High School in an RSB6 (Single-Family Residential, 6,000 sq. ft. min. lot size) District.

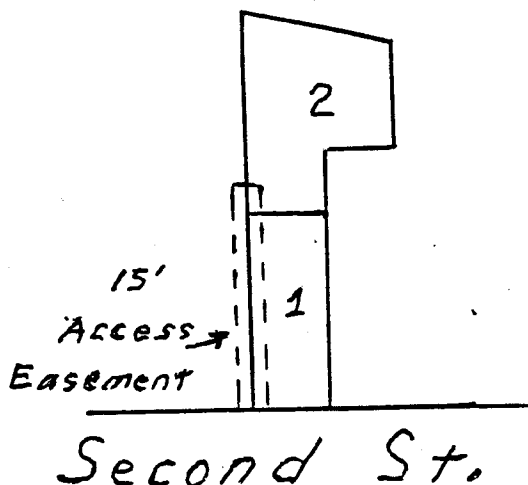
RECOMMENDATION

Staff recommends that the Planning Commission deny the Tentative Map of Parcel Map 5946 based on the attached findings.

MAJOR ISSUES

- A. The rear parcel will have no street frontage. Access will be via an existing 15 foot wide access easement. Approval of this design may be precedent setting for future subdivisions.
- B. The front parcel will have a lot width of 50.64 feet where 60 feet is required. The 50.64 width is encumbered with a 7.5-foot-wide access easement reducing the usable lot width to 43.14 and a net usable area of 5695± square feet. Although this width and area could accommodate a single-family dwelling, it does not comply with the minimum average lot width and the minimum area requirements of the ordinance.

PROPERTY DESCRIPTION



The property is a flagshaped parcel with a stem width of 50.64± feet and a stem length of 175± feet. The flag portion dimensions are 77± by 101±. The front 100± feet of the property is relatively flat then there is a short transition to a down slope of 15 percent towards the rear of the property with another flat area where the existing house is located.

The existing dwelling is to remain. Access to this dwelling is via an existing 15-foot-wide access easement which encumbers 7.5 feet of property along the southern property line of Parcel 1 and 7.5 feet of the southern abutting parcel.

The row of redwood trees in the middle of the parcel and the 16 inch diameter tree adjacent to the existing dwelling are to remain. No other trees exist on the site.

ADJACENT LAND USE/ZONING

North Single-Family Residence - RSB6 District
East Hayward High School - RSB6 District
South Single-Family Residence - RSB6 District
West Land owned by City of Hayward purchased for the proposed
 238 Bypass right-of-way - RSB6 District

PROPOSAL

The proposal is to create a 50± foot by 132± foot rectangular parcel consisting of 6,685± square feet that is encumbered by a 7.5-foot-wide ingress and egress easement along the southerly property line that is anticipated to serve both proposed parcels. The second parcel is "L" shaped consisting of 10,788± square feet with an existing house that is to remain.

GENERAL PLAN CONSIDERATION

The General Plan Map designates the area as Residential-Low Density (4.3 to 8.7 units per net acre). The density of this subdivision is 3.7 units per acre. The lower density is consistent with this designation in that the General Plan matrix allows for a lower density.

LOT DESIGN

The proposed lots are compared with the requirements of the RSB6 zoning district in the table below:

| <u>Category</u> | <u>RSB6 District</u> | <u>Current Proposal</u> |
|-----------------|----------------------|---|
| Min. Lot Size | 6,000 sq. ft. | 5,695± net sq. ft. (Parcel 1) 10,788± net sq. ft. (Parcel 2) |
| Min. Frontage | 35 ft. | 50± ft. (Parcel 1) 0± ft. (Parcel 2) |

| | | |
|----------------------------------|--------------|---|
| Avg. Lot Width | 60 ft. | 50± ft. (Parcel 1) 100± ft. (Parcel 2) |
| Min. Side Yard Setback | 5 ft. or 10% | 5.0 ft. (Parcel 1) 10.0 ft. (Parcel 2) |
| Min. front and rear yard setback | 20 ft. | 20 ft. Both Parcels |

ENVIRONMENTAL REVIEW

The preparation of the initial study revealed that the proposed development is within an established neighborhood and does not interfere with any wildlife habitat nor does it overburden the existing facilities or the neighborhood. For these reasons staff has determined the project has no significant effect on the environment and, in accordance with the requirements of the CEQA Guidelines, a Negative Declaration was filed with the City Clerk on January 24, 1992.

PUBLIC NOTICE

On November 1, 1991, staff conducted a preliminary meeting to review the tentative map of Parcel Map 5946. A notice of this meeting was noticed to all property owners within 300 feet and occupants of rental property abutting the project was held on November 1, 1991. There were no concerns or opposition expressed as a result of this notice.

Notice of this hearing was sent to all property owners and residents within a 300-foot radius and a notice was published in the "Daily Review" on January 27, 1992. To date, no comments have been received.

SECOND STREET

The property fronts on an unimproved portion of Second Street. The owner will be required to enter into a Deferred Street Improvement Agreement to install curb, gutter, sidewalk and tie-in paving. The precise plan line ordinance requires a street width of 68 feet which will accommodate 48-foot curb to curb width will ultimately allow for 4 travel lanes and with no on-street parking.

The owner will be required to relinquish all abutters rights along Second Street.

Because of the restriction of on-street parking on Second Street, the owner shall record a covenant that requires an additional on-site parking space for Parcel 1. The existing parking situation of Parcel 2 shall remain unchanged.

238 BYPASS

The parcel abuts the 238 Bypass right-of-way. On September 19, 1984, the City purchased the rear 400+ feet of Mr. Jensen's property to be used as right-of-way for the 238 Bypass. If the bypass is constructed, it will be below the elevation of the existing house and current design indicates that the subject site will be protected by a sound wall.

DEDICATIONS AND EASEMENTS

The parcel map shall indicate a 4.5-foot-wide dedication across the property frontage for street right-of-way purposes.

The parcel map shall indicate an ingress, egress and utility easement 15 feet wide serving both proposed parcels and the neighboring parcel to the south. The easement shall remain in its current location.

UTILITIES

There are existing sanitary sewer and water mains within Second Street to adequately serve the subdivision.

GRADING AND DRAINAGE

The building permit for a future dwelling on Parcel 1 shall include a drainage plan. All drainage shall be directed to either Second Street or the existing driveway.

SOILS REPORT

A soils report was submitted and approved for content and completeness by the Engineering Division. The report indicated that the soils were stable and could accommodate a single-family dwelling and contains recommended foundation designs for future structures.

DISCUSSION

The exceptions requested are a result of limitations created by existing conditions. The 7.5-foot-wide easement reduces the usable lot width to 43.14 feet. Honoring the required 5 foot side yard setbacks the building site would be 33 feet in width. This building area could allow for a house designed that would face the street with living area and allow the garage and the additional parking space to be located at the rear of the house. This easement may be expanded to accommodate the two utility poles that exist on the front parcel if deemed necessary. The final survey will indicate the exact location of the poles and the easement to one-hundreth of a foot. It is not anticipated that more than an additional foot will be necessary to include these poles in the easement.

The easement is wide enough to serve the two adjacent properties, the existing dwelling and the proposed dwelling. Whether or not the subdivision is approved the rear dwelling would continue using the easement as access. In order for the rear parcel to establish frontage, the front parcel would have to be reduced to a size that would render it unbuildable.

The zoning ordinance requires that all parcels have frontage onto a street. To achieve this the rear parcel must become a flag shaped lot or a private street must be approved that provides access to both parcels.

The rear parcel must be a flag shaped parcel to establish frontage. The ordinance requires that it have a minimum stem width of 16 feet. Even with a variance the width should not be reduced below 12 feet which would be the minimum width to provide a 10-foot-wide driveway. This would reduce the front parcel to a width of 38 feet allowing for only a 28-foot-wide building and a lot with a net area of 5168± feet.

The other option is to create a private street. There are two sections in the Municipal Code that address the creation of a private street.

Section 10-3.505 of the Subdivision Ordinance requires all private streets to have a minimum right-of-way of 40 feet and a minimum 24 feet wide paved curb to curb travel way. The 24-foot-wide travel way can only be used if additional parking is provided beyond the minimum two off-street parking spaces required in the Parking Ordinance.

Section 10-1.511 of the Zoning Ordinance allows for approval of a private street, that is not a part of a subdivision, that may have a driveway width of 12 feet to serve two-way circulation providing that the private street is physically adequate to provide access for pedestrians and vehicles; there is a right, exclusive or non-exclusive, to use the private street on a permanent basis which is appurtenant to the subject lot(s); and the private street access will not conflict with the General Plan.

The intent of this ordinance is to provide a means to create legal frontage for existing parcels that, due to existing physical limitations, cannot meet the private street requirements set forth in the subdivision ordinance or provide an alternate access to a property already fronting on a street such as an alley way to serve garages located behind the dwelling. It was not intended to be used in subdivisions that create parcels that have such limitations that they could not conform to the subdivision ordinance private street criteria.

Creating a private street under 24 feet wide as part of a subdivision would not only violate the zoning ordinance but would set a precedent for future subdivisions.

If the parcel was not subdivided it is possible that a use permit could be approved allowing two dwelling units on the property. The second unit would cause the density to be the same whether or not the property is subdivided, however, by keeping it one parcel the same development can occur without any variances. The average lot width would exceed 60 feet and being one parcel, it would have frontage on Second Street.

Prepared By:

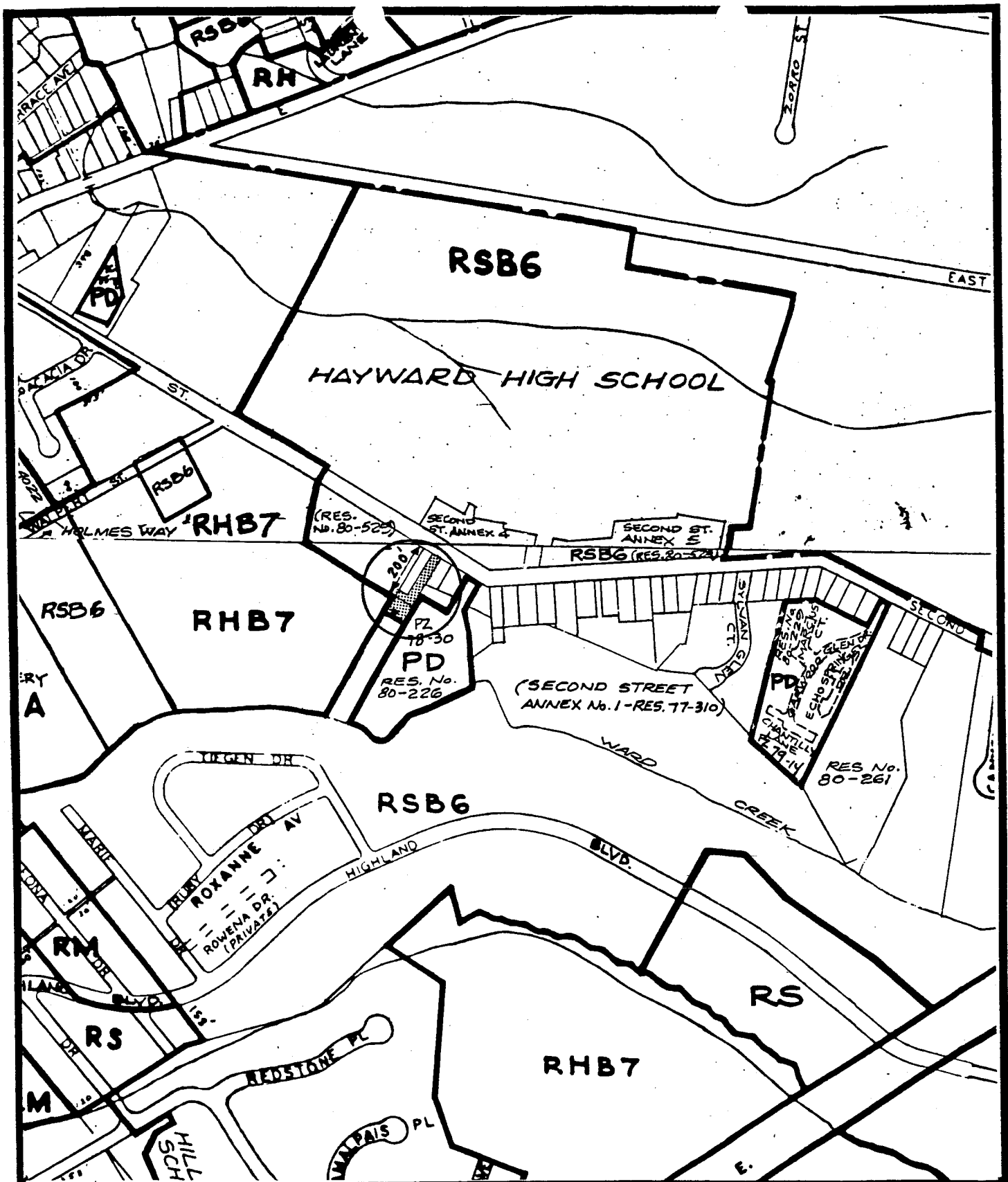
Tim R. Koonze

Tim R. Koonze
Assistant Development Engineer

Attachments:

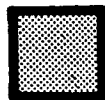
- Area Map
- Findings for Denial
- Conditions of Approval
- Negative Declaration
- Adjoining Properties Map
- State Map Act - Section 66474
- Tentative Map of Parcel Map 5946

PM5946-PC



1"=500'

AREA MAP



TENTATIVE MAP
OF
PARCEL MAP 5946

TENTATIVE MAP OF PARCEL MAP 5946

FINDINGS FOR DENIAL

- A. That the proposed subdivision is inconsistent with the existing zoning and certain regulations within the zoning ordinance in that the rear parcel lacks frontage, and the front parcel is deficient in lot width, and lot area.
- B. That the subdivision does not offer any attributes beyond minimum requirements nor does the lot configuration justify approving the proposed exceptions, especially since development of the front parcel could be achieved without any variances via a use permit.
- C. That the creation of the front parcel with a limited width does not conform to the intent of the existing zoning nor is it compatible to the neighborhood.

PM5946

CONDITIONS OF APPROVAL

TENTATIVE MAP OF PARCEL MAP 5946

PRIOR TO APPROVAL OF THE PARCEL MAP

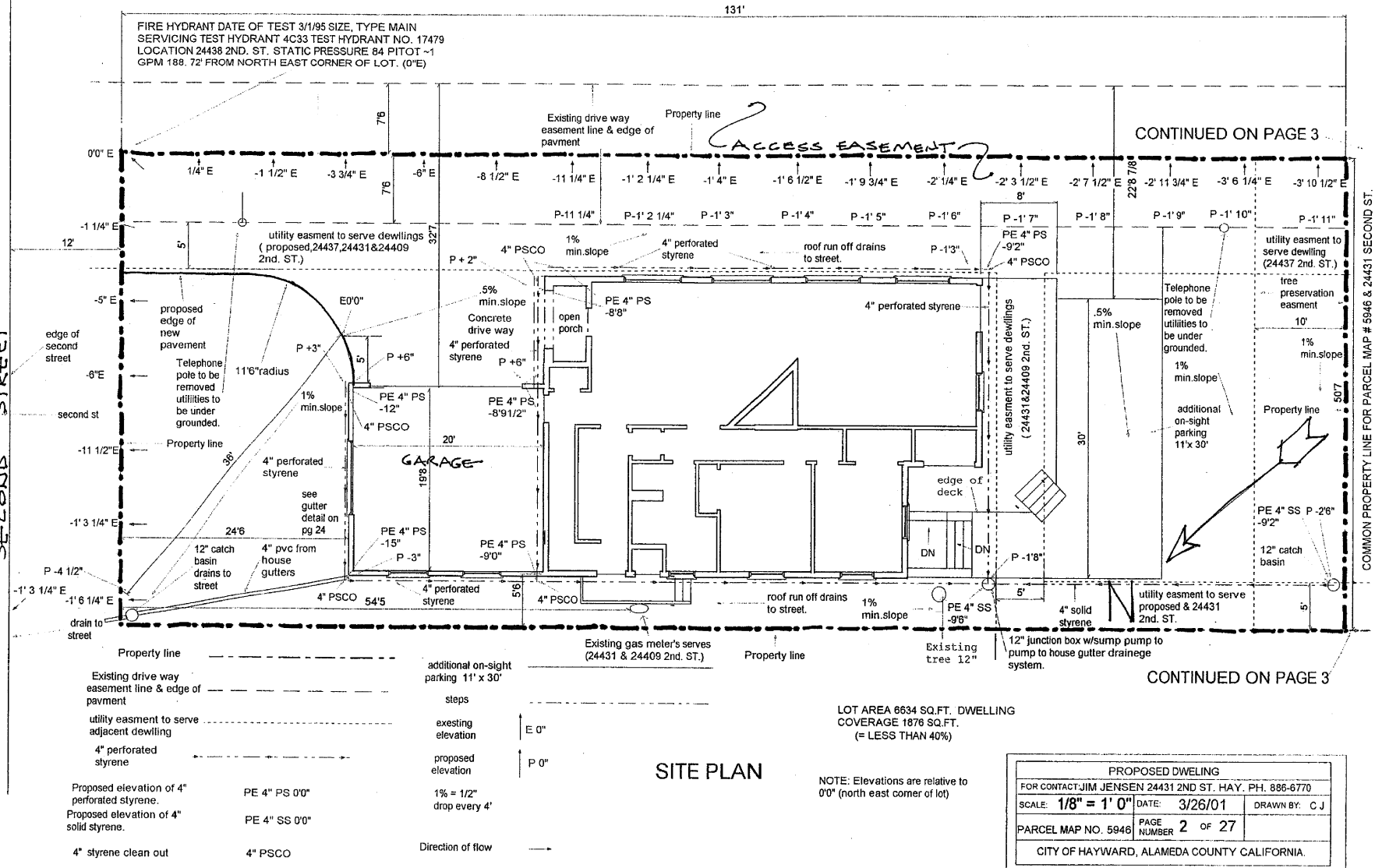
1. The owner shall dedicate to the City a 4.5-foot-wide strip of land across the property frontage.
2. The owner shall enter into a deferred street improvement agreement to install curb, gutter, sidewalk and tie-in paving along the Second Street frontage.
3. The parcel map shall indicate a reciprocal ingress, egress and utility easement as indicated on the approved Tentative Map for Parcel Map 5946. The easement shall be widened to include the two existing utility poles adjacent to the easement if necessary.
4. The owner shall relinquish all abutter's rights across the frontage of Parcel 2 with the exception of the portion that is encumbered by the existing ingress, egress and utility easement.
5. A covenant requiring Parcel 1 to provide an additional on-site parking space shall be recorded in the office of the Alameda County Recorder.

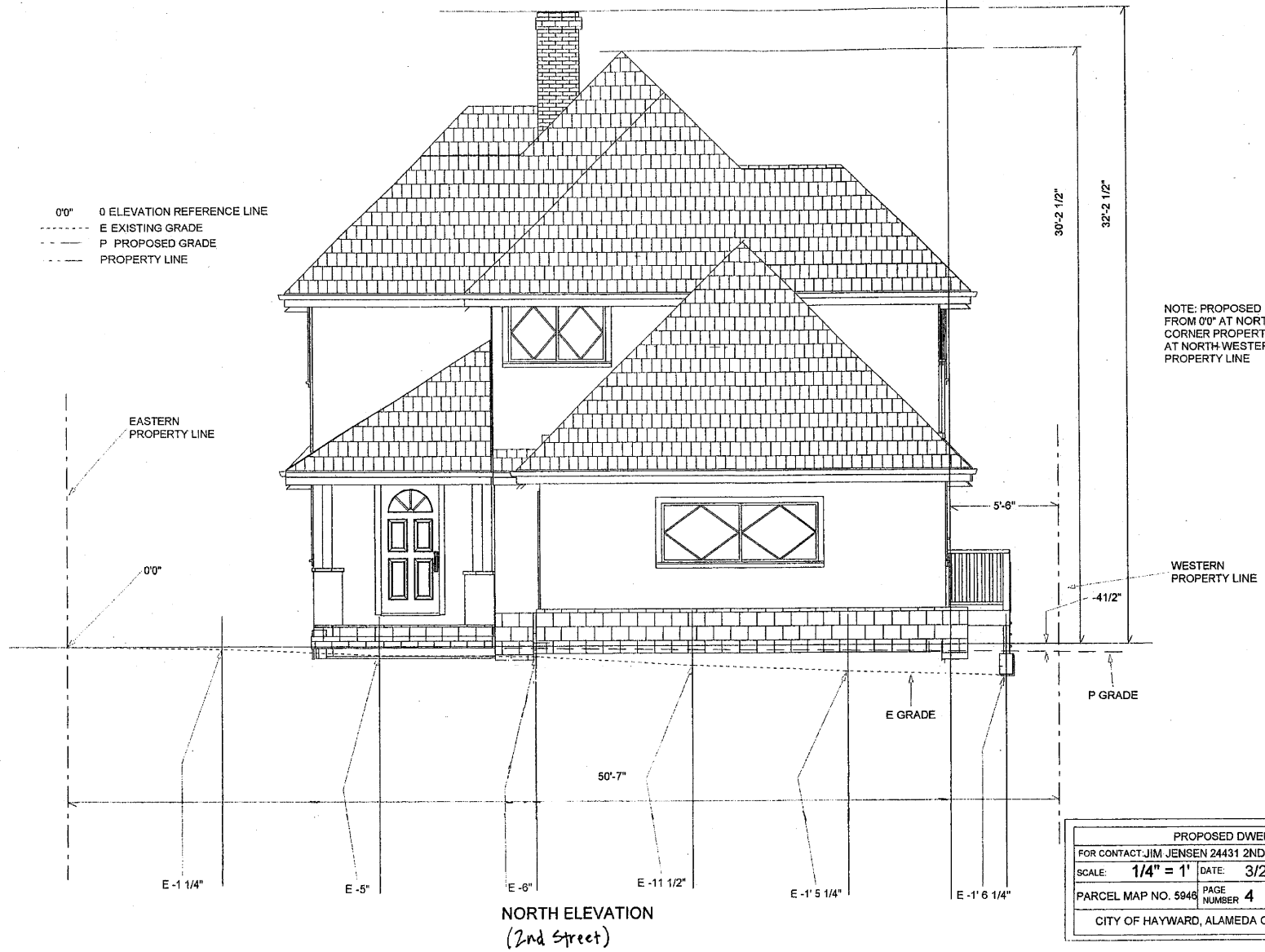
PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

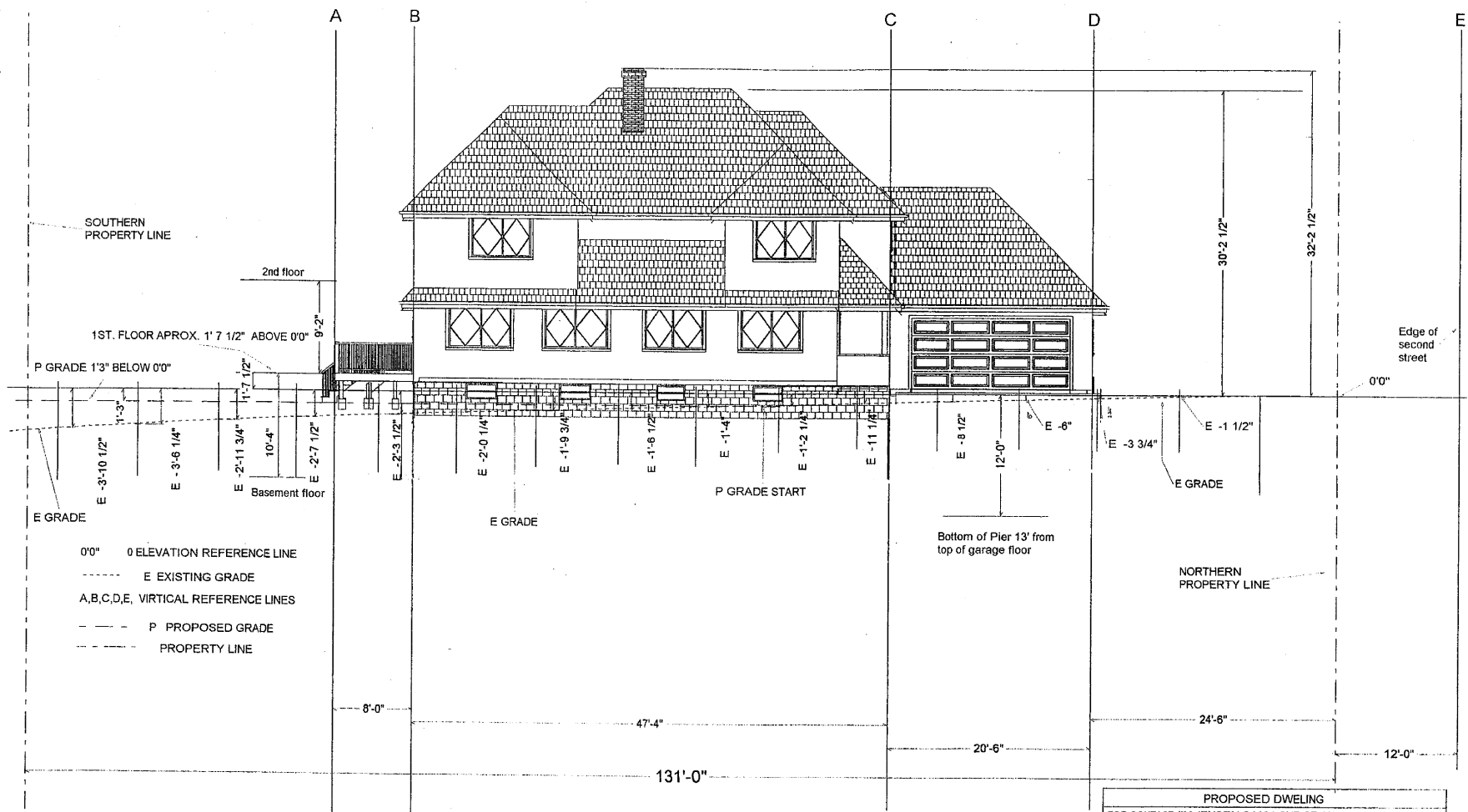
6. Pay park dedication in-lieu fees at rate in effect at the time of issuance of the building permit.

PM5946

SECOND STREET

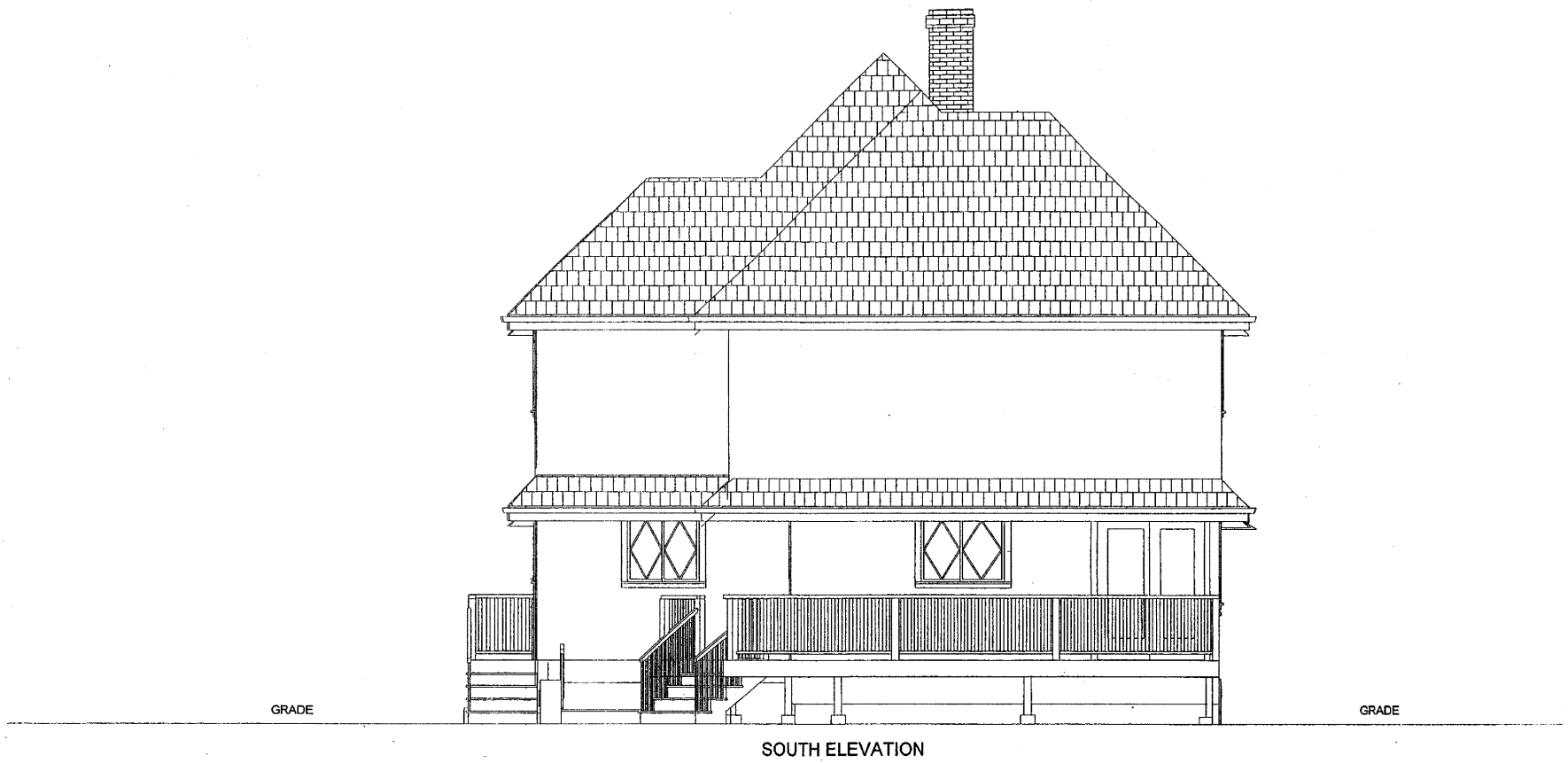






EAST ELEVATION

| PROPOSED DWELING | | |
|---|---------------------|---------------|
| FOR CONTACT: JIM JENSEN 24431 2ND ST. HAY. PH. 886-6770 | | |
| SCALE: 1/8" = 1'0" | DATE: 3/26/01 | DRAWN BY: C J |
| PARCEL MAP NO. 5946 | PAGE NUMBER 5 OF 27 | |
| CITY OF HAYWARD, ALAMEDA COUNTY CALIFORNIA. | | |



| | | |
|---|---------------------|---------------|
| PROPOSED DWELING | | |
| FOR CONTACT: JIM JENSEN 24431 2ND ST. HAY. PH. 886-6770 | | |
| SCALE: 1/4" = 1' | DATE: 3/26/01 | DRAWN BY: C J |
| PARCEL MAP NO. 5946 | PAGE NUMBER 6 OF 27 | |
| CITY OF HAYWARD, ALAMEDA COUNTY CALIFORNIA. | | |



WEST ELEVATION

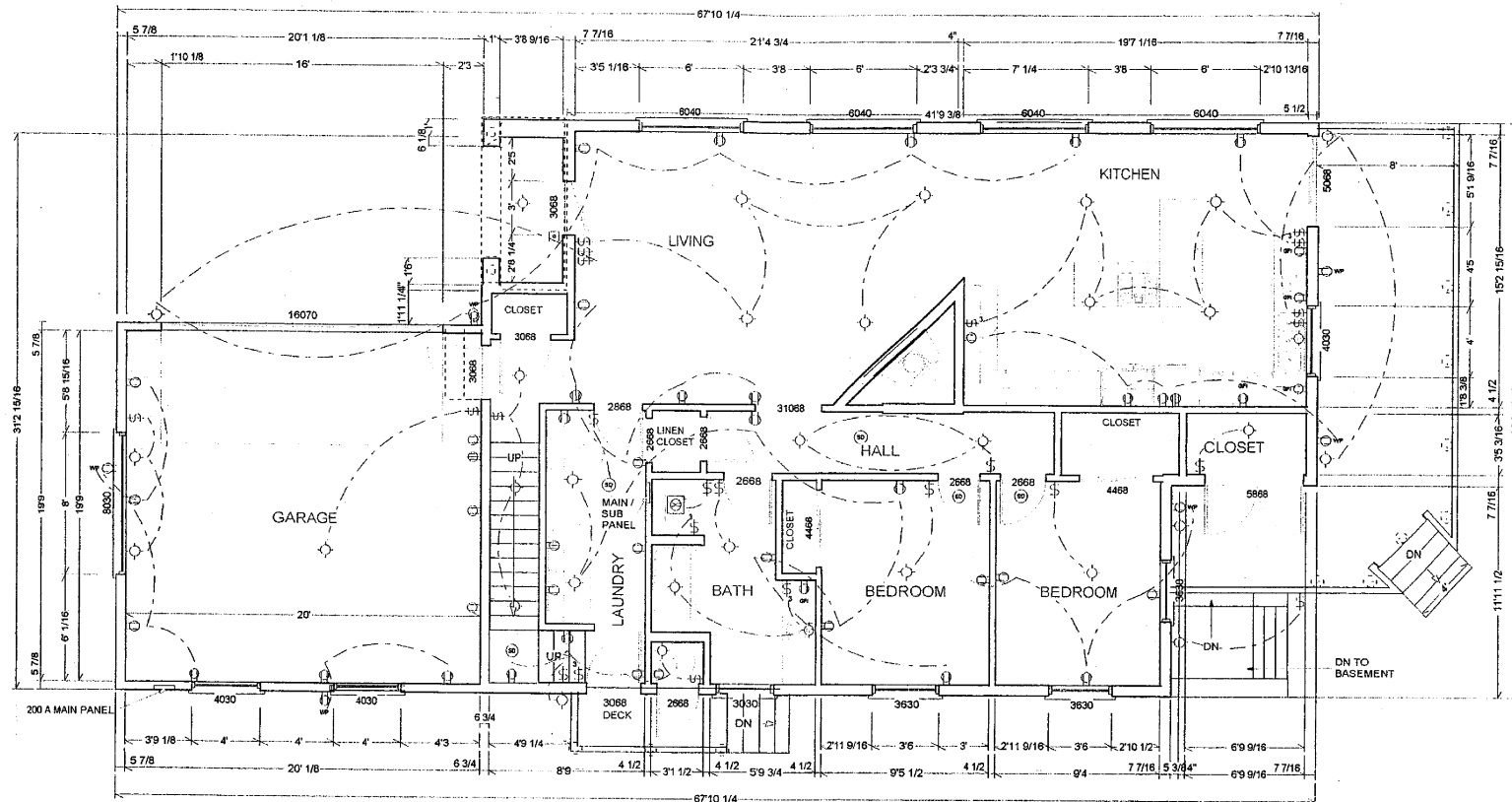
| | | |
|---|---------------------|---------------|
| PROPOSED DWELING | | |
| FOR CONTACT: JIM JENSEN 24431 2ND ST. HAY. PH. 888-6770 | | |
| SCALE: 3/16 = 1' | DATE: 3/26/01 | DRAWN BY: C J |
| PARCEL MAP NO. 5948 | PAGE NUMBER 7 OF 27 | |
| CITY OF HAYWARD, ALAMEDA COUNTY CALIFORNIA. | | |

A

B

C

D



1ST FLOOR

- | | |
|--|--|
| ⚡ SWITCH | ☎ TELEPHONE |
| ⚡ ³ SWITCH 3 WAY | 📺 TELEVISION |
| ⚡ ⁴ SWITCH 4 WAY | 🔔 DOOR BELL |
| ⚡ ⁵ SWITCH 5 WAY | 🌡 THERMOSTAT |
| ⚡ ^{WP} SWITCH WEATHER PROOF | 🔌 MAIN / SUB PANEL |
| 🔌 110 OUTLET | 💡 LIGHT |
| 🔌 220 OUTLET | 🌀 EXHAUST FAN |
| 🔌 ^{WP} 110 OUTLET WEATHER PROOF | 🚬 SMOKE DETECTOR |
| 🔌 ^{GFIC} 110 GROUND FAULT INTERRUPT | 🚧 2"x6" STUDS @ 16" BLOCKED @ SHEAR WALL |
| | 🚧 2"x4" STUDS @ 16" BLOCKED @ SHEAR WALL |

| PROPOSED DWELING | | |
|--|----------------------|---------------|
| FOR CONTACT JIM JENSEN 24431 2ND ST. HAY. PH. 886-6770 | | |
| SCALE: 3/16"=1" | DATE: 3/26/01 | DRAWN BY: C J |
| PARCEL MAP NO. 5946 | PAGE NUMBER 11 OF 27 | |
| CITY OF HAYWARD, ALAMEDA COUNTY CALIFORNIA. | | |

